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NEW JERSEY STATE BOARD  
OF PSYCHOLOGICAL EXAMINERS

STATE OF NEW JERSEY  
DEP'T OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF PSYCHOLOGICAL EXAMINERS  
DOCKET NO.  
DIV. OF LAW 93-

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IN THE MATTER OF AN INQUIRY INTO:  
THE PROFESSIONAL PRACTICE OF :

Administrative Action

MARIANN POKALO, Ph.D.  
License Number 2528

ORDER OF REPRIMAND

LICENSED TO PRACTICE PSYCHOLOGY :  
IN THE STATE OF NEW JERSEY :  
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This matter was presented to the Board of Psychological Examiners by the Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General, on inquiry into the professional practice of Mariann Pokalo, Ph.D. Dr. Pokalo is a licensed psychologist practicing at Atlantic Mental Health Center (hereinafter AMHC), 13 N. Hartford Avenue, Atlantic City, N.J. 08401, an exempt setting pursuant to N.J.S.A. 45:14B-6. She also maintains a private practice at 405 Delaware Street, Woodbury, New Jersey 08096.

Dr. Pokalo has appeared before an investigative committee of the Board in regard to a consumer complaint by client Mrs. T.A.<sup>1</sup> It appears that Mr. T.A. and Mrs. T.A. are litigants in a current matrimonial proceeding in Family Court in Atlantic County. The

<sup>1</sup> The litigants are referred to by initials herein to protect their privacy. Their full identity has been made known to Dr. Pokalo.

proceeding began with a temporary restraining order issued by a municipal court on May 2, 1991 prohibiting Mr. T.A. from contact or harassment of Mrs. T.A. and prohibiting him from any visitation rights with their 17-month old child. That Order was followed by a hearing before a judge of the Family Part of the Atlantic County Chancery Division on May 6, 1991 which resulted in a finding that Mr. T.A. had committed acts of domestic violence creating danger to Mrs. T.A. The Court, both on the record and by Order filed May 17, 1991, specifically found Mrs. T.A. credible in her allegations and found Mr. T.A. not credible in his denials. The husband was permanently restrained from contact with the wife, and the judge allowed only supervised visitation with the child. Another Court Order issued November 1, 1991 and filed December 2, 1991 continued to deny unsupervised visitation, pending psychological evaluation and report by the AMHC as to Mr. T.A.'s fitness for such visitation.

Dr. Pokalo has informed the Board that, at AMHC, she is assigned virtually all custody evaluation matters referred to AMHC by the court system and that when court deadlines require expedited service, Dr. Pokalo is permitted by AMHC to see and bill the parties as her private clients. Dr. Pokalo reports that her involvement in the present matter began when she was contacted by a member of the Board of Trustees of the AMHC who inquired if Dr. Pokalo performed custody evaluations. That person also inquired about the fee, and indicated she would be referring to Dr. Pokalo a friend who needed a prompt evaluation. Dr. Pokalo understood the

referral to be to her in her capacity as AMHC staff psychologist. Shortly thereafter, in compliance with the Court Order, Mr. T.A. contacted Dr. Pokalo at the AMHC to make an appointment. However, when it appeared that the evaluation and report had to be completed sooner than the clinic's schedule would allow, Dr. Pokalo states she was permitted to conduct the evaluation of Mr. T.A. in her private capacity as a psychologist. Neither Dr. Pokalo nor AMHC notified the court that, notwithstanding the terms of the Order, the evaluation was not being carried out by AMHC but rather was delegated by the AMHC director to Dr. Pokalo in her private capacity.

Dr. Pokalo met with Mr. T.A., based upon what she assumed was a court order, but she neither requested nor received the Order (signed December 9, 1991) or any of the underlying documents. She states that she believed she was generally aware that there had been a Domestic Violence Order issued in the course of the proceedings, but she had no detail on the background. In accordance with her usual routine, she merely requested the names of both attorneys and the judge. Dr. Pokalo acknowledges that, prior to her meeting with Mr. T.A., she received from Mr. T.A.'s attorney certain documents described as affidavits of both parties. Dr. Pokalo professed to be unfamiliar with the significance of these documents or the import of their captions, and she states she did not notice that the cover letter from Mr. T.A.'s attorney made no provision for notice of this contact to be served on adversary counsel.

During a single extended session conducted by Dr. Pokalo in her private capacity, but using AMHC premises, she first performed a clinical interview and then had Mr. T.A. complete the MCMI-II, the MMPI-2, the Rorschach and the Gestalt-Bender Tests, tests which she states she routinely administers. She believes that during the interview, Mr. T.A. told her there had been a court restraining order issued at one point but that it had been terminated. Dr. Pokalo, who states to the Board that she knows such orders can be modified or vacated only by the Court, did not ask to see the purported changed/vacated Order or seek any verification of such change. She states that often spouses will seek to reconcile after issuance of a Domestic Violence TRO, but she admits that this is a common occurrence in domestic violence situations and often reflects inability of the victim-spouse to control the situation rather than a true reconciliation.<sup>2</sup>

In her initial report prepared regarding this testing and evaluation session, Dr. Pokalo made no mention of the fact that the Millon test was found to be unscorable and therefore invalid. Nor did she mention that she had commenced scoring the Rorschach but abandoned that task when she concluded that there was "nothing significant" to be found. When asked by the Board Committee whether Mr. T.A.'s English was found to be sufficient for him to answer the MMPI-2, Dr. Pokalo responded that she had asked him if he under-

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<sup>2</sup> The Domestic Violence Act, N.J.S.A. 2C:25-1 et seq. states at section 28 (i) and (iii) that an Order remains in effect until a judge of the Family Part issues a further Order. The litigants have no authority to abandon or withdraw an order on their own.

stood the questions and when he replied Yes, she simply assumed that he did.<sup>3</sup> Dr. Pokalo did not specifically address in her report a "fairly high" L scale nor discuss the F scale or its implications of impulsivity, especially in regard to Mr. T.A.'s self-report of his history and arrival in this State or with regard to the Court concern that he might kidnap the child of this separated couple. Moreover, separate and apart from the tests ultimately found unscorable and invalid, Dr. Pokalo did not discuss in her report any reservations regarding the validity of the tests administered to him based upon his limited command of English or the cultural differences between his upbringing in Egypt and contemporary American or New Jersey society either in general or with regard to spousal treatment or childrearing.

Dr. Pokalo states that since the referral from the Court originally came to AMHC and was only secondarily referred to her, she determined to charge the standard AMHC fee of \$400 per party.

At a later time, but prior to an actual submission of her report to the Court, Dr. Pokalo was informed that the Court had ordered Mrs. T.A. to be evaluated, and by the same evaluator. Mrs. T.A. thereupon promptly contacted AMHC seeking an appointment with Dr. Pokalo. Mrs. T.A. visited the clinic and completed an intake form, specifically referencing the Domestic Violence Order history.

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<sup>3</sup> A court transcript of Mr. T.A.'s testimony reveals extremely limited English vocabulary and suggests that, at most, he grasps no more than the gist of verbal statements made in anything more than simple English. His written ability and comprehension are not documented in any material made available to Dr. Pokalo or this Board.

She was asked by clinic staff to pay \$25 for the initial fee, and did so.

Dr. Pokalo saw Mrs. T.A. on February 19, 1992 for an interview. Dr. Pokalo then gave Mrs. T.A. an appointment card to return for testing on March 3, 1992, at which time she administered the MCMI-II and - as the client was about to leave the premises - called her back to administer a projective test (Draw-A-House, Tree, Person). Dr. Pokalo then added a section on this evaluation to her original report.

Dr. Pokalo thereafter sent her private bill for \$400 to Mrs. T.A. Mrs. T.A. refused to pay it, in the belief that she had been evaluated by Dr. Pokalo as a staff member of the clinic and not in a private capacity. Dr. Pokalo then referred the bill for collection to a business run by Dr. Pokalo's sister, which business was not registered under the trade name it used nor was it registered as a collection agency with this State.

The Board notes numerous deficiencies in Dr. Pokalo's handling of this matter, including the following.

- 1) There was a failure to obtain the Court Order and pertinent Domestic Violence Orders in light of the circumstances, including but not limited to the fact that a Court had already concluded that, for the purpose of the Domestic Violence Order and supervised visitation, Mr. T.A. was not credible and Mrs. T.A. was. Such circumstances, having been based on sworn direct and cross-

examination, should have been considered in performing the clinical evaluations and testing assessments.

2) Dr. Pokalo permitted written communication (at least) from the attorney for Mr. T.A. without contemporaneous notice to the attorney for Mrs. T.A.

3) There is no indication that the Court was ever informed of the diversion of Mr. T.A. to Dr. Pokalo in her private capacity rather than as the AMHC staff member evaluation contemplated by the Court, even at the later time when Mrs. T.A. was received for evaluation.

4) Dr. Pokalo signed as "witness" to Mrs. T.A.'s AHMC Consent to Treatment Form without actually having witnessed the signing.<sup>4</sup>

5) There was a failure to make clear to Mrs. T.A. that Dr. Pokalo was seeing her in a private capacity rather than as an AMHC staff member, as contemplated by the Court and by the AMHC forms.

6) There was a failure by Dr. Pokalo to prepare a complete clinic record, omitting identification of one of Mrs. T.A.'s assigned appointments.

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<sup>4</sup> The clinic record contains a service record form which makes no mention whatever of the March 1991 evaluation session. The clinic record also contains a "Consent to Treatment" form which contains a handwritten signature purporting to be that of Mrs. T.A. and which is "witnessed" by Dr. Pokalo. In fact, Mrs. T.A. never signed the form and the signature has been placed there fraudulently. Dr. Pokalo admits she routinely signs her name as "witness" without having actually witnessed the signature of the person consenting to "treatment" and she has no idea who wrote in Mrs. T.A.'s name. Moreover, this was not a "treatment" situation.

In addition, Dr. Pokalo's report is written in a manner which does not comply with accepted standards of practice in this specialty. The following deficiencies are specifically noted:

1) There is no indication of the specific Court referral nor of the task assigned in accordance with the Court Order.

2) There is no mention that the Court referral was unilaterally diverted by sending Mr. T.A. to see Dr. Pokalo in her private capacity. Indeed, the report contains Dr. Pokalo's address at the clinic, continuing the misimpression that it was prepared as a clinic responsibility.

3) There is no separate list of each person interviewed nor an indication of whether any others were sought for interview but unavailable.

4) There is no note of the actual date(s) of interview/testing of each person nor any note of the time spent on each occasion.

5) There is a significant misrepresentation regarding tests administered, written in such a manner as to clearly imply that Mrs. T.A. was given the same psychological assessment tests as Mr. T.A., when in fact that was not true.

6) There is a failure to discuss or even to consider whether the tests selected for Mr. T.A. were "culture-fair" in his circumstances.

7) There is a failure to discuss the reasonable professional inferences derived from the standard psychological tests administered to each. This is particularly marked in the case of



Mr. T.A., who - if he actually understood the test questions - produced test scores which show a significant profile of the "fake do-gooder."

8) There is a failure to discuss Mr. T.A.'s limited command of spoken English and how this might have affected his ability to take the written tests.

9) There is a failure to report that the MCMI-II taken by Mr. T.A. was unscorable and invalid, and that scoring was not completed or interpreted for the Rorschach.

10) There was a failure to have administered the supplemental test scales to Mr. T.A. to elicit the presence of possible sociopathy, in light of the information actually available but unutilized and unreported by Dr. Pokalo.

In addition, there were other professional improprieties: When Mrs. T.A. sought a copy of the clinic record - or at least the record of her own evaluation (which she had been led to believe was the responsible agency for the Court-ordered evaluations), Dr. Pokalo refused to timely provide a copy of the record of Mrs. T.A.'s evaluation.

Finally, despite this Board's specific request, both in its original subpoena and verbally at the Committee's investigative inquiry, for all raw data from tests administered, including the Rorschach given to Mr. T.A., Dr. Pokalo has failed to submit it.

In the course of this investigation, Dr. Pokalo volunteered to provide to the Board two recent reports (identification redacted) for the purpose of demonstrating significant improvement over the quality of the T.A. reports.

Review of both reports, however, discloses many of the same deficiencies noted above, in that there is no indication of actual receipt and review of the specific terms of the Court Order pertinent to each case; no specific listing of the persons she interviewed or the dates and length of each interview; no clear indication of precisely which tests (if any) were administered to each person interviewed. She has not submitted the raw data of the testing to which she refers generally in the report. Nor is it clear which of her evaluative comments were drawn from her own clinical assessment of the interviewee and which are generalized statements drawn from a computerized test analysis which may or may not have been borne out in the clinical interview. The Board thus finds no improvement in the more recent evaluation reports, but rather a persisting failure to recognize the continuing pattern of deficiencies.

The Board therefore concludes that Dr. Pokalo has demonstrated repeated incompetence and/or negligence in her evaluations of custody and related matters for the reasons set forth above. Said conduct constitutes failure to comply with the requirements of N.J.A.C. 13:42-19(a)(1)(xxi)(2) and related rules. The itemized instances of improper conduct variously constitute violation of N.J.S.A. 45:1-21(b), (d) and (h).

In light of all the circumstances, and for good cause shown,  
IT IS, ON THIS <sup>6th</sup> DAY OF *December* 1993,

ORDERED:

Dr. Pokalo shall take the following corrective action:

1. Dr. Pokalo shall promptly refund to Mrs. T.A. the \$25 improperly required of Mrs. T.A. by AMHC when, in fact, Mrs. T.A. was being seen by Dr. Pokalo in her private capacity (unbeknownst to the client). Further, Dr. Pokalo shall refrain from attempting to collect any unpaid portion of her \$400 fee.

2. Dr. Pokalo shall promptly undertake to participate in and to successfully complete seminars and courses approved in advance by the Board to improve her professional work in administration of tests, interpretation thereof, and preparation of evaluation reports. Said courses shall be completed within one year of the issuance of this directive.

3. Dr. Pokalo shall work under supervision for one year from the entry of this Order, with one hour of supervision for every 5 therapy clients or custody/evaluation assignments. The supervisor shall be selected from licensed psychologists acceptable to and approved by the Board for this special purpose, and shall be a person with whom she has no personal or current professional relationship. Approval by the Board shall not be unreasonably withheld.

4. Dr. Pokalo shall assure that the supervisor provides quarterly reports to the Board regarding Dr. Pokalo's regular attendance at supervision sessions, and regarding her progress and

development in her professional work. One custody/evaluation report shall be submitted by Dr. Pokalo to the Board for review during each quarter, and the supervisor shall submit a comprehensive report summarizing the year's supervision work and accomplishments at the conclusion of the year. The supervisor shall notify the Board promptly in the event Dr. Pokalo terminates supervision prior to the conclusion of the Board-mandated period, and if the quality of work falls significantly below accepted standards of practice or fails to improve beyond the current level.

5. Dr. Pokalo shall ensure that, henceforth, all reports contain her name, license number, and the office address and capacity in which her reports are prepared. All pages shall be properly numbered in such manner that photocopies of any report shall contain said numbers. She shall scrupulously avoid any ex parte contact by an attorney for one of the parties, or shall take prompt steps to remediate any such conduct by notice to the court and the attorney for the other party(ies), if any.

6. Dr. Pokalo's reports shall comply with all of the requirements addressed in this directive, and shall avoid all the factors criticized herein.

7. Dr. Pokalo shall pay to the State Board of Psychological Examiners within 10 days of the filing date hereof the sum of \$314.00 in investigative costs.

STATE BOARD OF PSYCHOLOGICAL EXAMINERS

By:

*Jeffry H. Tindall Ph.D.*

Jeffry H. Tindall, Ph.D., Chair

I have read the within document and  
I understands its terms and agree to  
comply with its directives.

Mariann Pokalo Ph.D.

Date: 11-18-93

Mariann Pokalo, Ph.D.

Joseph E. Driesel  
Witness